



U.S. Department of Justice

Thomas A. Marino

United States Attorney

Middle District of Pennsylvania

*William J. Nealon Federal Building
Suite 311
235 N. Washington Avenue
P.O. Box 309
Scranton, PA 18501-0309
(570) 348-2800
FAX (570) 348-2816/348-2830*

*Harrisburg Federal Building and
Courthouse, Suite 220
228 Walnut Street
P.O. Box 11754
Harrisburg, PA 17108-1754
(717) 221-4482
FAX (717) 221-4582/221-2246*

*Herman T. Schneebeli Federal Building
Suite 316
240 West Third Street
Williamsport, PA 17701-6465
(570) 326-1935
FAX (570) 326-7916*

Please respond to: Harrisburg

September 3, 2002

George Tubies
P.O. Box 204
Hanover, PA 17331

Dear Mr. Tubies:

As you recall, I wrote to you on October 18, 2001, to inform you that the United States Army Corps of Engineers, Baltimore District, has referred a matter to this office concerning violations of Section 404 of the Clean Water Act (the Act), 33 U.S.C. § 1311(a). This violation can be summarized as follows:

A recent field investigation by a representative of this office has disclosed that unauthorized dredged and fill materials have been discharged into jurisdictional wetlands adjacent to a tributary to White Run at your property located off U.S. Route 30 and Granite Station Road in Straban Township, Adams County, PA. The referenced discharges are in association with the construction of an access road.

On June 20, 2001, a Cease and Desist letter was sent informing you of the results of the Army Corps' investigation and that no further work was to be performed at that location without compliance with the law.

Upon discovering violations of the Clean Water Act, the Army Corps may seek compliance with the Act in federal district court and seek civil penalties of up to \$25,000 per day per violation. 33 U.S.C. §§ 1319(b), (d). As an alternative to litigation, the United States Army Corps of Engineers, in conjunction with the United States Attorney for the Middle District of Pennsylvania, may enforce adherence to the Act through the imposition of administrative penalties of up to, but not exceeding \$25,000 per violation. 33 U.S.C. § 1319(g). At this time, however, prior to pursuing either of the formal enforcement mechanisms described above, we are seeking your cooperation in settling this matter.

In addition to the violations we have described, it is essential that the Army Corps of Engineers obtain access to your property to take soil samples to determine the nature and extent of the wetlands affected. We would like to reach an agreement with you permitting that testing to take place as soon as possible. If you are not willing to give us this access, we will ask the Court to issue an administrative warrant. I would prefer to avoid this step by reaching an agreement with you.

We spoke by phone last fall regarding a meeting to be held in our office in Harrisburg, but were unable to find a suitable date. I would like to schedule such a meeting in the next few weeks.

The Army Corps, through the United States Attorney's office, would be happy to meet with you to discuss this violation. Please call me, or my paralegal Kim Stevens, to arrange a meeting. If we have not heard from you by September 18, 2002, however, we will conclude that you are not interested in an informal resolution.

Sincerely,

THOMAS A. MARINO
United States Attorney

A handwritten signature in black ink, appearing to read "Anne K. Fiorenza", written in a cursive style.

ANNE K. FIORENZA
Assistant U.S. Attorney

TAM:AKF:kas

cc: Frank Plewa
Army Corps of Engineers



U.S. Department of Justice

*Martin C. Carlson
United States Attorney
Middle District of Pennsylvania*

*Federal Building
P.O. Box 11754
228 Walnut Street
Harrisburg, PA 17108*

*717-221-4482
FAX 717-221-4582*

October 18, 2001

Via Certified Mail

George Tubies
P.O. Box 204
Hanover, PA 17331

Dear Mr. Tubies:

The United States Army Corps of Engineers, Baltimore District, has referred a matter to this office concerning violations of Section 404 of the Clean Water Act (the Act), 33 U.S.C. § 1311(a). This violation can be summarized as follows:

A recent field investigation by a representative of this office has disclosed that unauthorized dredged and fill materials have been discharged into jurisdictional wetlands adjacent to a tributary to White Run at your property located off U.S. Route 30 and Granite Station Road in Straban Township, Adams County, PA. The referenced discharges are in association with the construction of an access road.

On June 20, 2001, a Cease and Desist letter was sent informing you of the results of the Army Corps' investigation and that no further work was to be performed at that location without compliance with the law. A copy of the letter is enclosed.

Upon discovering violations of the Clean Water Act, the Army Corps may seek compliance with the Act in federal district court and seek civil penalties of up to \$25,000 per day per violation. 33 U.S.C. §§ 1319(b), (d). As an alternative to litigation, the United States Army Corps of Engineers, in conjunction with the United States Attorney for the Middle District of Pennsylvania, may enforce adherence to the Act through the imposition of administrative penalties of up to, but not exceeding \$25,000 per violation. 33 U.S.C. § 1319(g). At this time, however, prior to pursuing either of the formal enforcement mechanisms described above, we are seeking your cooperation in settling this matter.

In addition to the violations we have described, it is essential that the Army

Corps of Engineers obtain access to your property to take soil samples to determine the nature and extent of the wetlands affected. We would like to reach an agreement with you permitting that testing to take place as soon as possible. If you are not willing to give us this access, we will ask the Court to issue an administrative warrant. I would prefer to avoid this step by reaching an agreement with you.

The Army Corps, through the United States Attorney's office, would be happy to meet with you to discuss this violation. If we have not heard from you by October 26, 2001, however, we will conclude that you are not interested in an informal resolution.

Sincerely,

MARTIN C. CARLSON
United States Attorney

A handwritten signature in cursive script, appearing to read "Anne K. Fiorenza".

ANNE K. FIORENZA
Assistant U.S. Attorney

MMC:AKF:kas

cc: Frank Plewa
Army Corps of Engineers

Sandra A. Zelen
Chief, Enforcement Section
Dept. of Army